

REMARKS

Reconsideration and withdrawal of the rejections of the claimed invention is respectfully requested in view of the amendments, remarks and enclosures herewith, which place the application in condition for allowance.

I. STATUS OF CLAIMS AND FORMAL MATTERS

Claims 33, 36-38 and 40-53 are still pending in this application. The applicants thank the Examiner for the indication of allowable subject matter for claims 36-38 and 40-53; the rejection to claim 33 is addressed below. No new matter has been added by this amendment.

It is submitted that the claims, herewith and as originally presented, are patentably distinct over the prior art cited in the Office Action, and that these claims were in full compliance with the requirements of 35 U.S.C. § 112.

II. THE 35 U.S.C. 112, 2nd PARAGRAPH REJECTION HAS BEEN OVERCOME

Claims 33 was rejected as allegedly being indefinite for using the following phrases:

“the other direction”;

“the elastic areas”;

“the entire surface”; and

“the underside of the backing layer”.

In order to expedite prosecution the applicants have offered the following amendments in order to advance prosecution. However, if the rejection was based on the use of the article “the”, the applicants note that the claims were understandable in their previous form (*See* USPTO Memorandum dated 2 September 2008 to the Technology Center Patent Examining Corps from John Love, Deputy Commissioner for Patent Examination Policy (DCPEP) - Subject: Indefiniteness rejections under 35 U.S.C. 112, second paragraph which stated in part “...Examiners should not make *per se* technical rejections when the claim is otherwise clear, e.g., use of “the” instead of “a” when a claim element is first introduced.”)

If these amendments/explanations do not address the Examiner’s concerns, the applicants request that alternative language be suggested in the next communication (see MPEP 2173.02) or simply contact the undersigned to discuss the possibility of an Examiner’s Amendment.

CONCLUSION

In view of the remarks and amendments herewith, the application is believed to be in condition for allowance. Favorable reconsideration of the application and prompt issuance of a

Notice of Allowance are earnestly solicited. The undersigned looks forward to hearing favorably from the Examiner at an early date, and, the Examiner is invited to telephonically contact the undersigned to advance prosecution. The Commission is authorized to charge any fee occasioned by this paper, or credit any overpayment of such fees, to Deposit Account No. 50-0320.

Respectfully submitted,
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